LEGISLATIVE BILL 975

Introduced by Kolterman, 24; Coash, 27.

Read first time January 14, 2016

Committee: Judiciary

A BILL FOR AN ACT relating to children and families; to adopt the Child Welfare Services Preservation Act; and to provide severability.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Child Welfare Services Preservation Act.

Sec. 2. The Legislature finds and declares that:

(1) The State of Nebraska has a critical need to find and retain safe, loving, and supportive homes for children, especially because the number of children needing foster care and adoption placement outnumber the homes available for placement;

(2) In order to serve the best interests of the children of this state, the State of Nebraska has a longstanding public-private partnership with a diverse group of faith-based and non-faith-based organizations that work side by side to find and retain safe, loving, and supportive homes for children. Significantly, faith-based organizations have a lengthy and distinguished history of providing child welfare services which predates government involvement;

(3) Having as many possible qualified child-placing agencies in Nebraska is a substantial benefit to the children of Nebraska who are in need of these placement services and to all of the citizens of Nebraska because the more qualified agencies taking part in this process there are, the greater the likelihood that permanent placement can be achieved for each child; and

(4) In order to preserve the support that child-placing agencies offer children and families, the government should not take adverse action against child-placing agencies based on their sincerely held religious beliefs.

Sec. 3. For purposes of the Child Welfare Services Preservation Act:

(1) Adverse action includes, but is not limited to, denying a child-placing agency's application for funding, refusing to renew an agency's funding, canceling an agency's funding, declining to enter into a contract with an agency, refusing to renew a contract with an agency, canceling a contract with an agency, declining to issue a license to an
agency, refusing to renew an agency's license, canceling an agency's license, taking an enforcement action against an agency, treating an agency less favorably than similarly situated agencies in regard to participation in a government program, or taking any other action that materially alters the terms or conditions of an agency's funding, contract, or license;

(2) Child welfare service means any social service provided to or on behalf of children, including assisting abused, neglected, or troubled children, counseling children or parents, promoting foster parenting, providing foster homes or temporary group shelters for children, recruiting foster parents, placing children in foster homes, licensing foster homes, promoting adoption, recruiting adoptive parents, assisting adoptions, supporting adoptive families, assisting guardianships, assisting kinship caregivers, providing family preservation services, providing family support services, and providing time-limited family reunification services;

(3) Child-placing agency or agency has the same meaning as in section 71-1926; and

(4) State includes the state, its agencies, and its political subdivisions.

Sec. 4. The state shall not take an adverse action against a child-placing agency because the agency declines to provide, facilitate, or provide a direct referral for a child welfare service that conflicts with the agency's sincerely held religious beliefs.

Sec. 5. (1) A child-placing agency aggrieved by a violation of section 4 of this act may assert that violation as a claim or defense in any administrative or judicial proceeding and may obtain all appropriate relief, including equitable or declaratory relief and compensatory money damages, with respect to that violation. The state, governmental agencies, and political subdivisions may be sued upon claims arising under section 4 of this act. Any such suit may be brought in state or
federal court.

(2) An agency that prevails in an action described in this section by establishing a violation of section 4 of this act is entitled to recover reasonable attorney's fees and court costs.

Sec. 6. The Child Welfare Services Preservation Act shall be construed liberally so as to effectuate its purposes.

Sec. 7. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.